

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	12-CR-301 (ADS)
v.	:	
	:	DECLARATION
DANIEL GREENBERG	:	
Defendant.	:	
-----	x	

I, ERIC M. CREIZMAN, hereby declare under penalty of perjury pursuant to 28 U.S.C § 1746:

1. I am an attorney admitted to practice in the courts of the State of New York and in this Court. I represent Daniel Greenberg in the above-referenced case, and submit this declaration in support of his motion

2. Attached as Exhibit A are true and correct copies of FTC “Digital Evidence Collection Worksheets” that the government produced in discovery and bear bates range CCL CUSTODY 000016-000019.

3. Attached as Exhibit B is a true and correct copy of email correspondence that the government produced in discovery and bears bates range CCL CUSTODY 000003-000005.

4. Attached as Exhibit C is a true and correct copy of email correspondence that the government produced in discovery and bear bates range CCL CUSTODY 000006-000007.

5. Attached as Exhibit D is a true and correct copy of email correspondence that the government produced in discovery and bear bates range CCL CUSTODY 000009-000011.

Dated: New York, New York
June 12, 2013

/s/ Eric M. Creizman
ERIC M. CREIZMAN



Federal Trade Commission

Digital Evidence Collection Worksheet

CHAIN OF CUSTODY

Collection Date: 06-30-2009 Time: 12:25

Released Date: 07-01-2009 Time: 13:00

Company: Classic Closeouts LLC

Address: 110 West Graham Avenue

City: Hempstead State: New York

Zip Code: 11550 Phone Number:

Device User: Photos Taken: Yes

Location/Office: Server Room Power Status: ON

Device Status- Open Programs/Documents: On and unlocked.

Device Type: Server (RAID) Manufacture: Model:

Serial Number: Device Operating System: Win 2000 SRV

Network Status: Ethernet Shutdown Method: None- Left ON

CMOS Date: N/A Time: N/A Actual Date: N/A Time: N/A

IT#: 07 Size: 4.3 GB Media: N/A Manufacture: N/A Model: N/A S/N #: N/A

FTC Media # FTC003 IMG Program: Windows OS Version: N/A Image Type: Logical Image Verified: N/A

Connection: USB 2.0 IMG Errors: N/A MD5 Hash: N/A

Write-Block: NONE SHA Hash: N/A

IT#: Size: Media: Manufacture: Model: S/N #:

FTC Media # IMG Program: Version: Image Type: Image Verified:

Connection: IMG Errors: MD5 Hash:

Write-Block: SHA Hash:

Case Number: 08-23236

Case Name: Classic Closeouts LLC

FTC Organization: 1688 Northeast Region- New York

Case Type: 13b Expedited Discovery

Case Attorney: Robin Eichen

FTC DE Manager: Luke Erickson

DE Examiner: Bryan J. Brubaker

Agency/Company: CACI

Comments: Server Name: VIZNETIC-73099. Photos indicate server times were consistent with local date and time. Unable to complete forensic image due to power failure and time constraints; logical capture of potential evidence performed instead. Could not complete capture of some items, namely image (picture) files.

GCL CUSTODY 000016



Federal Trade Commission

Digital Evidence Collection Worksheet

CHAIN OF CUSTODY

Collection Date: 06-30-2009 Time: 12:38

Released Date: 07-01-2009 Time: 13:00

Company: Classic Closeouts LLC
Address: 110 West Graham Avenue
City: Hempstead State: New York
Zip Code: 11550 Phone Number:

Device User: N/A Photos Taken: Yes
Location/Office: Server Room Power Status: ON

Device Status- Open Programs/Documents: On and unlocked.

Device Type: Server (RAID) Manufacture: HP Model: G3
Serial Number: 317821-002 Device Operating System: Win 2003 SRV
Network Status: Ethernet Shutdown Method: None- Left ON
CMOS Date: N/A Time: N/A Actual Date: N/A Time: N/A

IT#: 04 Size: 3.9 GB Media: RAID HD Manufacture: N/A Model: N/A S/N #: N/A
FTC Media # FTC005 IMG Program: Windows Version: N/A Image Type: Logical Image Verified: N/A
Connection: USB 2.0 IMG Errors: N/A MD5 Hash: N/A
Write-Block: NONE SHA Hash: N/A

IT#: Size: Media: Manufacture: Model: S/N #:
FTC Media # IMG Program: Version: Image Type: Image Verified: N/A
Connection: IMG Errors: N/A MD5 Hash:
Write-Block: SHA Hash:

Case Number: 08-23236
Case Name: Classic Closeouts LLC
FTC Organization: 1688 Northeast Region- New York
Case Type: 13b Expedited Discovery
Case Attorney: Robin Eichen
FTC DE Manager: Luke Erickson
DE Examiner: Bryan J. Brubaker
Agency/Company: CACI

Comments: Server Name: DEV2. Photos (see folder 104) indicate server times were consistent with local date and time. EnCase images files are from imaging jobs that were interrupted during a power failure and are incomplete. A logical copy of data from the system drive was not performed. Originally, using FTK Imager, each logical drive (C, D, and E) was to be it's own image.

CCL CUSTODY 000017



Federal Trade Commission

Digital Evidence Collection Worksheet

CHAIN OF CUSTODY

Collection Date: 06-30-2009 Time: 13:12

Released Date: 07-01-2009 Time: 13:00

LOCATIONS
Company: Classic Closeouts LLC
Address: 110 West Graham Avenue
City: Hempstead State: New York
Zip Code: 11550 Phone Number:

TECHNICAL
Device User: Photos Taken: Yes
Location/Office: Server Room Power Status: ON

Device Status- Open Programs/Documents: N/A; Password to access device via web portal reportedly not known, did not appear to be set to default

DEVICE
Device Type: NAS Manufacture: Netgear Model: ReadyNAS NV+
Serial Number: failed to record Device Operating System: Unknown
Network Status: Ethernet Shutdown Method: None- Left ON
CMOS Date: N/A Time: N/A Actual Date: N/A Time: N/A

MEDIA
IT#: 06 Size: 676 GB Media: N/A Manufacture: N/A Model: N/A S/N #: N/A
FTC Media # FTC004 IMG Program: FTK Imager Lite Version: 2.5.4 Image Type: Logical Image Verified: N/A
Connection: Ethernet IMG Errors: N/A MD5 Hash: N/A
Write-Block: NONE SHA Hash: N/A

MEDIA
IT#: Size: Media: Manufacture: Model: S/N #:
FTC Media # IMG Program: Version: Image Type: Image Verified:
Connection: IMG Errors: MD5 Hash:
Write-Block: SHA Hash:

Comments: Unable to access filesystem directly via USB or Ethernet. All attempts at logical data acquisition via network shares (share name: CC-NAS; with 3 folders of interest) were unsuccessful. FTK Imager Lite may have produced partial FTK logical image files. Unit's LCD display indicated 493 GB of 676 GB of storage was available. Network IP address via DHCP: 192.168.132.66.

CCL CUSTODY 000018



Federal Trade Commission

Digital Evidence Collection Worksheet

CHAIN OF CUSTODY

Collection Date: 06-30-2009 Time: 12:00

Released Date: 07-01-2009 Time: 13:00

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Company: Classic Closeouts LLC
Address: 110 West Graham Avenue
City: Hempstead State: New York
Zip Code: 11550 Phone Number:

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Case Number: 08-23236
Case Name: Classic Closeouts LLC
FTC Organization: 1688 Northeast Region- New York
Case Type: 13b Expedited Discovery
Case Attorney: Robin Eichen
FTC DE Manager: Luke Erickson
DE Examiner: Bryan J. Brubaker
Agency/Company: CACI

Device User: Photos Taken: Yes

Location/Office: Server Room Power Status: ON

Device Status- Open Programs/Documents: On and unlocked; #1 position on KVM switch.

Device Type: Server (RAID) Manufacture: Compaq Model: Proliant ML370

Serial Number: Device Operating System: Win 2000 SRV

Network Status: Ethernet Shutdown Method: None- Left ON

CMOS Date: N/A Time: N/A Actual Date: N/A Time: N/A

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IT#: 07 Size: 14.2 GB Media: N/A Manufacture: N/A Model: N/A S/N #: N/A

FTC Media # FTC004 IMG Program: FTK Imager Lite Version: 2.5.4 Image Type: Logical Image Verified: N/A

Connection: USB 2.0 IMG Errors: N/A MD5 Hash: N/A

Write-Block: NONE SHA Hash: N/A

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IT#: Size: Media: Manufacture: Model: S/N #:

FTC Media # IMG Program: Version: Image Type: Image Verified:

Connection: IMG Errors: MD5 Hash:

Write-Block: SHA Hash:

Comments: Server Name: Dumbledore. Photos indicate server times were consistent with local date and time. Server had no USB ports. Data was acquired logically via network share connections from a separate PC (the IT 'administration' workstation). Data was collected from 4 share locations and organized into subdirectories: IT07-1 through IT07-4

CCL CUSTODY 000019

Schriver, Charles D

From: Papenfuss, Chad [cpapenfuss@ftc.gov]
Sent: Wednesday, April 28, 2010 4:54 PM
To: Schriver, Charles D
Subject: RE: Classic closeouts - status

Charles

Thanks – I got your email – I will let you know when the drives have been sent as well as the Fedex tracking number.

Chad

Chad Papenfuss
Litigation Support Manager
Federal Trade Commission
Bureau of Consumer Protection/DPI
600 Pennsylvania Ave. NW
Suite H-130
Washington, DC 20580
cpapenfuss@ftc.gov
o - 202-326-3068
c - 202-468-5369

From: Schriver, Charles D [mailto:CDSchrive@uspis.gov]
Sent: Wednesday, April 28, 2010 4:25 PM
To: Papenfuss, Chad
Subject: RE: Classic closeouts - status

Chad

My address is:

US Postal Inspection Service
185 West John St
Hicksville, NY 11802-0160
Attn: Insp: C Schriver

Charlie
646-423-9235

From: Papenfuss, Chad [mailto:cpapenfuss@ftc.gov]
Sent: Wednesday, April 28, 2010 1:36 PM
To: Coyne, Sarah (USANYE); Eichen, Robin E.
Cc: Patel, Ajay; Huettner, Hugh; Pisano, Radu; Schriver, Charles D
Subject: RE: Classic closeouts - status

Ms. Coyne

Thanks for your email. I did want to follow up; I have left Mr. Schriver a phone message. Mr. Schriver – please give me a call as you can at 202-326-3068.

Also, a quick update, we may be able to have the copies of the forensic images done by Friday, this

CCL CUSTODY 000003

5/26/2010

week, if not sooner. Per Robin's direction below, will send directly to the US Attorney's office. Please let me know to whom to address the label for receipt of the drives. Also, upon receipt of the drives, please let me know that you did get them.

Please let me know if you have any questions.

Chad

Chad Papenfuss
Litigation Support Manager
Federal Trade Commission
Bureau of Consumer Protection/DPI
600 Pennsylvania Ave. NW
Suite H-130
Washington, DC 20580
cpapenfuss@ftc.gov
o - 202-326-3068
c - 202-468-5369

From: Coyne, Sarah (USANYE) [mailto:Sarah.Coyne@usdoj.gov]
Sent: Monday, April 26, 2010 12:19 PM
To: Eichen, Robin E.; Papenfuss, Chad
Cc: Patel, Ajay; Huettner, Hugh; Pisano, Radu; Schriver, Charles D
Subject: RE: Classic closeouts - status

Chad can you please call Agent Schriver about this -- 646-423-9235

From: Eichen, Robin E. [mailto:REICHEN@ftc.gov]
Sent: Monday, April 26, 2010 12:11 PM
To: Papenfuss, Chad
Cc: Patel, Ajay; Huettner, Hugh; Pisano, Radu; Coyne, Sarah (USANYE); Schriver, Charles D
Subject: RE: Classic closeouts - status

Chad,

Please forward the information directly to the US Attorney's Office. We do not want to delay any further.

Thanks.

Robin E. Eichen
Senior Attorney
Federal Trade Commission
One Bowling Green
Suite 318
New York, NY 10004
tel: 212-607-2803
fax: 212-607-2822
reichen@ftc.gov

From: Papenfuss, Chad
Sent: Monday, April 26, 2010 12:09 PM
To: Eichen, Robin E.
Cc: Patel, Ajay; Huettner, Hugh; Pisano, Radu
Subject: Classic closeouts - status

CCL CUSTODY 000004

5/26/2010

Robin

I wanted to provide you a quick update of our progress on copying the forensic images as well as the Concordance database for the USA office.

We have had an issue with copying some of the forensic images, so we have changed the media from 500 gigabytes to 250 gigabyte drives. Accordingly, we will have 4-5 drives that will contain the forensic images and Concordance databases. As the copying of the forensic images to the multiple drives is taking awhile, we cannot have the data ready today. However, we can have ready by the end of the week.

Can you let me know if you would like us to send the drives directly to the USA office or to you? Please also remember that we do need to get the drives back after the USA office has completed copying the data from the drive.

I am sorry for the delay – but wanted to let you know the status of the forensic copy project.

Let me know if you have any questions.
Chad

Chad Papenfuss
Litigation Support Manager
Federal Trade Commission
Bureau of Consumer Protection/DPI
600 Pennsylvania Ave. NW
Suite H-130
Washington, DC 20580
cpapenfuss@ftc.gov
o - 202-326-3068
c - 202-468-5369

5/26/2010

CCL CUSTODY 000005

Schriver, Charles D

From: Pisano, Radu [rpisano@ftc.gov]
Sent: Monday, May 03, 2010 6:43 PM
To: Schriver, Charles D
Cc: Sarah.Coyne@usdoj.gov; Eichen, Robin E.; Papenfuss, Chad; Huettner, Hugh
Subject: Classic Closeouts Forensic Images

Charles,

The drive has been shipped to:

US Postal Inspection Service
185 West John St
Hicksville, NY 11802-0160
Attn: Insp: Charles Schriver
646-423-9235

FEDEX Tracking number to USPIS: 7935-0582-8739
FEDEX Tracking number from USPIS to FTC: 8663-7274-5751

The particulars of these drives are:

1000-038 MXI Security 250GB - 0823236-009 (Contains Concordance Data)
P/N: MX0BA1250001FIPS
S/N: 0C250919E00B004D

1000-072 MXI Security 250GB - 0823236-010
P/N: MX0BA1250001FIPS
S/N: 0C250911E00B01B9

1000-014 MXI Security 120GB - 0823236-011
P/N: MX0BA1120001FIPS
S/N: 0C220846E00F0007

1000-045 MXI Security 500GB- 0823236-012
P/N: MX0BA1500001FIPS
S/N: 0C270925E00B0128

The combination for the lock and passwords shown above will be provided as soon as you contact us acknowledging the receipt of the drive.

Now, to some important notes regarding the images:

- There were two different forensic acquisitions. One at the defendant's premises and the other at a storage facility where the machines were stored after the defendant's were evicted. As such, you will find the images in two separate folders in the encrypted drives: Machines found in Storage and Machines found at the premises.
- Some images were not usable at all. These were not acquired successfully by our contractor. These are: Machines found on premises: IT03, IT04, IT05, IT06_3, IT09.
- All other images were successfully verified with FTK Imager.

Please contact me at the numbers below or by email when you receive the case containing the drives, so that I

CCL CUSTODY 000006

5/28/2010

can send you the passwords and combination for the lock.

Sincerely,

Radu Pisano
Forensic Examiner
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3410 Office

5/28/2010

CCL CUSTODY 000007

Schrive, Charles D

From: Huettner, Hugh [hhuettner@ftc.gov]
Sent: Wednesday, June 02, 2010 10:58 AM
To: Schriver, Charles D
Cc: Papenfuss, Chad; Pisano, Radu
Subject: RE: Classic Closeouts Forensic Images

Charles:

Federal Trade Commission
Attn: Radu Pisano/Hugh Huettner
600 Pennsylvania Avenue, H130
Washington, DC 20580

Thanks, Hugh

Hugh Huettner
Technical Computer Forensic Examiner

Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Washington, DC 20580

(202) 326-2817 Office
(202) 758-7607 Cell

From: Schriver, Charles D [mailto:CDSchrive@uspis.gov]
Sent: Wednesday, June 02, 2010 10:53 AM
To: Pisano, Radu
Cc: Papenfuss, Chad; Huettner, Hugh
Subject: RE: Classic Closeouts Forensic Images

Radu

Our Computer Forensic Lab has completed the copying of the hard drives for our analysis. I would like to send them back to the FTC. Could you please provide me with the proper address I need to do so.

Thanks.

Charlie Schriver
US Postal Inspection Service

From: Pisano, Radu [mailto:rpisano@ftc.gov]
Sent: Tuesday, May 04, 2010 10:31 AM
To: Schriver, Charles D
Cc: Papenfuss, Chad; Huettner, Hugh
Subject: RE: Classic Closeouts Forensic Images

Charles,

The combination is 3371. Below are the passwords:

CCL CUSTODY 000009

6/4/2010

1000-038 MXI Security 250GB - 0823236-009 (Contains Concordance Data)
P/N: MX0BA1250001FIPS
S/N: 0C250919E00B004D
Admin:Litsupport of FTC
Normal Password:29C984942737F036B6

1000-072 MXI Security 250GB - 0823236-010
P/N: MX0BA1250001FIPS
S/N: 0C250911E00B01B9
Admin:Litsupport of FTC
Normal Password:2A98550CBF7D60CAD48

1000-014 MXI Security 120GB - 0823236-011
P/N: MX0BA1120001FIPS
S/N: 0C220846E00F0007
Admin:Litsupport of FTC
Normal Password:C022C2207A16083E4D6B

1000-045 MXI Security 500GB- 0823236-012
P/N: MX0BA1500001FIPS
S/N: 0C270925E00B0128
Admin:Litsupport of FTC
Normal Password:E4FD4A62347FE79C65

Let me know if you need more information.

Sincerely,

Radu Pisano
Forensic Examiner
Federal Trade Commission
Bureau of Consumer Protection
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3410 Office

From: Schriver, Charles D [mailto:CDSchriver@uspis.gov]
Sent: Tuesday, May 04, 2010 10:28 AM
To: Pisano, Radu
Cc: Sarah.Coyne@usdoj.gov; Eichen, Robin E.; Papenfuss, Chad; Huettner, Hugh
Subject: RE: Classic Closeouts Forensic Images

Radu

I received the package today. Could you please send me the combination and password.

Thanks.

Charlie Schriver

From: Pisano, Radu [mailto:rpisano@ftc.gov]
Sent: Monday, May 03, 2010 6:43 PM
To: Schriver, Charles D
Cc: Sarah.Coyne@usdoj.gov; Eichen, Robin E.; Papenfuss, Chad; Huettner, Hugh

CCL CUSTODY 000010

6/4/2010

Subject: Classic Closeouts Forensic Images

Charles,

The drive has been shipped to:

US Postal Inspection Service

185 West John St

Hicksville, NY 11802-0160

Attn: Insp: Charles Schriver

646-423-9235

FEDEX Tracking number to USPIS: 7935-0582-8739

FEDEX Tracking number from USPIS to FTC: 8663-7274-5751

The particulars of these drives are:

1000-038 MXI Security 250GB - 0823236-009 (Contains Concordance Data)

P/N: MX0BA1250001FIPS

S/N: 0C250919E00B004D

1000-072 MXI Security 250GB - 0823236-010

P/N: MX0BA1250001FIPS

S/N: 0C250911E00B01B9

1000-014 MXI Security 120GB - 0823236-011

P/N: MX0BA1120001FIPS

S/N: 0C220846E00F0007

1000-045 MXI Security 500GB- 0823236-012

P/N: MX0BA1500001FIPS

S/N: 0C270925E00B0128

The combination for the lock and passwords shown above will be provided as soon as you contact us acknowledging the receipt of the drive.

Now, to some important notes regarding the images:

- There were two different forensic acquisitions. One at the defendant's premises and the other at a storage facility where the machines were stored after the defendant's were evicted. As such, you will find the images in two separate folders in the encrypted drives: Machines found in Storage and Machines found at the premises.
- Some images were not usable at all. These were not acquired successfully by our contractor. These are: Machines found on premises: IT03, IT04, IT05, IT06_3, IT09.
- All other images were successfully verified with FTK Imager.

Please contact me at the numbers below or by email when you receive the case containing the drives, so that I can send you the passwords and combination for the lock.

Sincerely,

Radu Pisano

Forensic Examiner

Federal Trade Commission

Bureau of Consumer Protection

600 Pennsylvania Avenue, NW

Washington, DC 20580

(202) 326-3410 Office

CCL CUSTODY 000011

6/4/2010